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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,489	02/12/2004	Jeffrey Heine	7220-X04-061	2323
27317 7590 11/02/2007 FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO 21355 EAST DIXIE HIGHWAY SUITE 115 MIAMI, FL 33180			EXAMINER FEATHERSTONE, MARK D	
			ART UNIT 4157	PAPER NUMBER
			MAIL DATE 11/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/777,489	Applicant(s) HEINE ET AL.	
	Examiner Mark D. Featherstone	Art Unit 4157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

2. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Ritz et al, US PG Pub # 2003/0070179 A1.

With regard to Claim 1, Ritz discloses:

A system for providing access to information related to an audio or video signal being distributed to a multiplicity of people at a given time (paragraph 18) the system including or consisting of watermarking means for inserting identification code into said audio or video signal before or at the time of distribution (paragraph 0018 – Ritz discloses that the end user will “capture” codes relating to a broadcast, which inherently indicates the codes were inserted sometime before or during time of distribution) said codes consisting or including information identifying the time of distribution and the identity of the distributor (paragraph

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0038 – Ritz describes an embodiment wherein the consumer provides the code to the database, and the database is searched to determine the broadcaster, and the time of the call in order to match the time in the database for the desired item) **to means for reading the identification codes and associating a block of data stored in a data store with said identification codes** (paragraph 0036 – Ritz discloses a look-up database to resolve the codes) **and communication means for one or more person who has received said audio or video signal to access said block of data using either said identification codes or the identity of the distributor and the time of distribution.** (paragraph 0038 – Ritz describes an embodiment wherein the consumer calls into a database system and identifies the desired broadcast code for database look-up).

With regard to Claim 2, Ritz discloses:

A system as claimed in claim 1 (see claim 1 rejection), **in which the data store is a server** (paragraph 0019), **and the communication means includes a telephone which accesses the server via a computer network, WWW or WAP pages, text messaging, or interactive voice response means** (paragraph 0038, Ritz describes an embodiment wherein the consumer calls into a database system with a telephone and speaks the broadcast code)

With regard to Claim 3, Ritz discloses:

A system as claimed in claim 1 (see claim 1 rejection), **in which the data store is connected to means for decoding said identification codes such that the time of broadcast of a given audio or video item is recorded in said data store** (Paragraph

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0030 – Ritz describes here a database to store content information for each broadcaster. Ritz specifically discloses information related to time and date of broadcast, and a provided code to identify additional attributes of the media owner).

With regard to Claim 4, Ritz discloses:

A system as claimed in claim 1 (see claim 1 rejection), in which the communication means includes means to decode and store said identification codes (Paragraph 0023, Ritz discloses the ability of his system to decode the codes from the broadcast, and store them until transmission to the database when an internet connection is made available).

With regard to Claim 5, Ritz discloses:

A system as claimed in claim 2 (see claim 2 rejection), in which the communication means includes means to decode and store said identification codes. (Paragraph 0039 – Ritz discloses the use of a mobile phone to capture and store codes until transmission to the database)

With regard to Claim 6, Ritz discloses:

A system as claimed in claim 3, in which the communication means includes means to decode and store said identification codes (Paragraph 0023, Ritz discloses the ability of his system to decode the codes from the broadcast, and store them until transmission to the database when an internet connection is made available).

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark D. Featherstone whose telephone number is (571) 270-3750. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F US Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Featherstone – Patent Examiner


VU LE
SUPERVISORY PATENT EXAMINER